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9 *Attorneys for Defendants Zurich American
10 Insurance Company and Zurich American
11 Insurance Company of Illinois*

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13 **UNITED STATES DISTRICT COURT**
14 **IN AND FOR THE DISTRICT OF ARIZONA**

15 MARTHA TAYLOR on behalf of the
16 ESTATE OF STEVEN THOMSON,
17 THOMAS THOMSON, and KAYCI
THOMSON,

18 Plaintiffs,

v.

19 ZURICH AMERICAN INSURANCE
20 COMPANY, and ZURICH AMERICAN
21 INSURANCE COMPANY OF ILLINOIS,

22 Defendants.

23 Case Number:

24 **NOTICE OF REMOVAL**

25 Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, and 29 U.S.C. §§ 1001-1461,
26 and LRCiv 3.7, Defendants Zurich American Insurance Company (“Zurich”) and Zurich
27 American Insurance Company of Illinois (“Zurich of Illinois”) hereby remove to this Court
28 the above-captioned state court civil action (CV2011-00772) pending in the Mohave County,
Arizona Superior Court. Removal is proper on the following grounds:

29 1. On May 11, 2011, Plaintiffs Martha Taylor, on behalf of the Estate of Steven
30 Thomson, Thomas Thomson, and Kayci Thomson filed a Complaint against Zurich and
31 Zurich of Illinois in the Mohave County, Arizona Superior Court, Case No. CV201100772.

1 2. On June 10, 2011, Plaintiffs served Zurich's statutory agent, the Arizona
 2 Department of Insurance, with a Summons directed to Zurich, only; a copy of the Complaint;
 3 and a copy of the Certificate Re: Compulsory Arbitration. Pursuant to 28 U.S.C. § 1446(a),
 4 a true and correct copy of the Complaint; Summons issued for service on Zurich, only; and
 5 Certificate Re: Compulsory Arbitration served on Zurich via the Arizona Department of
 6 Insurance, are attached hereto as **Exhibit A**. Zurich of Illinois has not received copies of a
 7 Summons, Complaint, and a copy of the Certificate Re: Compulsory Arbitration, although
 8 Plaintiffs have caused to be filed with the Court an Affidavit of Service stating that Zurich of
 9 Illinois was so served on June 10, 2011. Plaintiffs' Affidavits of Service, filed with the
 10 Mohave County, Arizona, Superior Court on June 20, 2011, are attached hereto as **Exhibit**
 11 **B**. Copies of the Exhibits to the Complaint, which were *not* served on Zurich or Zurich of
 12 Illinois, are attached hereto as **Exhibit C**.

13 3. As alleged in paragraph 1 of the Complaint, Plaintiff Martha Taylor is a
 14 resident of the State of Arizona. *See* Exhibit A, ¶ 1.

15 4. As alleged in paragraph 2 of the Complaint, Plaintiff Thomas Thomson is a
 16 resident of the State of Arizona. *See* Exhibit A at ¶ 2.

17 5. As alleged in paragraph 3 of the Complaint, Plaintiff Kayci Thomson is a
 18 resident of the State of California. *See* Exhibit A at ¶ 3.

19 6. Zurich is a corporation organized under the laws of the State of New York with
 20 its principal place of business in the State of Illinois.

21 7. Zurich American Insurance Company of Illinois is a corporation organized
 22 under the laws of the State of Illinois with its principal place of business in the State of
 23 Illinois.

24 8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1)
 25 because complete diversity of citizenship exists between Plaintiffs and Defendants and the
 26 amount in controversy, as alleged in the Complaint, exceeds \$75,000, exclusive of interest
 27 and costs. *See* Exhibit A at ¶¶ 20, 21, 64, and 65.

9. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because, as alleged in the Complaint, it arises under the laws of the United States, specifically the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001-1461. *See Exhibit A, ¶¶ 14-15; see also 29 U.S.C. § 1132(e)(1).*

10. The policy described in the Complaint is an employee welfare benefit plan governed by ERISA, and Plaintiffs seek benefits allegedly due under the policy. *See Exhibit A at ¶¶ 15, 45-48, and 63-66; see also 29 U.S.C. §§ 1002(1), 1003(a), and 1132(a)(1)(B).*

11. This notice of removal is timely under 28 U.S.C. § 1446(b) because it is being filed within thirty days after service of Summons and a copy of the Complaint on Zurich's statutory agent.

12. Pursuant to 28 U.S.C. § 1446(d) and LRCiv 3.7(a), written notice of this notice of removal will be given to Plaintiffs and a copy of this Notice of Removal has been filed with the Clerk of the Mohave County, Arizona Superior Court.

13. Pursuant to LRCiv 3.7(b), true and complete copies of all pleadings and other documents that were previously filed with the state court are being filed contemporaneously herewith.

WHEREFORE, Defendants remove this action from the Mohave County, Arizona, Superior Court to the United States District Court for the District of Arizona.

Dated this 8th day of July, 2011.

KUTAK ROCK LLP

By s/ Philip A. Overcash
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 8th 2011, the foregoing NOTICE OF REMOVAL was filed electronically. A copy of the foregoing is being sent on this 8th day of July, 2011, via first-class mail, postage prepaid to:

Edward P. Moriarity, Esq.

Bradley L. Booke, Esq.

Minot C. Maser, Esq.

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